

### **REMARKS**

In response to the Office Action dated July 28, 2009, Applicant respectfully requests reconsideration and reexamination of the present Application as amended. Claims 4-10, 12-13, 23-27, 46-49, 55-57, 62-66, 77-79, 81-86, and 91-103 were previously pending in this application. By this amendment, claims 4, 55, 82-84, and 95 have been amended. Support for R<sub>1</sub> in claims 4 and 55 being an alkyl substituted with a sulfonamide can be found in Example 45; support for R<sub>1</sub> being an alkyl substituted with an amide can be found in Example 49; support for R<sub>1</sub> being an alkyl substituted with a urea can be found in Example 369 support for R<sub>1</sub> being an alkyl substituted with an amine can be found in Example 398; support for R<sub>1</sub> being an alkyl substituted with an N-containing heterocycle can be found in Example 401. Further support for R<sub>1</sub> being sulfonamide, amide, urea, amine, or N-containing heterocycle can be found on page 48, lines 7-17, as R<sub>1</sub> was previously defined as being -R<sub>4</sub>, -X-R<sub>4</sub>, -X-Y-R<sub>4</sub>, -X-Y-X-Y-R<sub>4</sub>, or -X-R<sub>5</sub>. Claims 91-93 have been canceled, and new claims 112-119 have been added. As a result, claims 4-10, 12-13, 23-27, 46-49, 55-57, 62-66, 77-79, 81-86, 94-103 and 112-119 are pending for examination with claims 4 and 55 being independent claims. No new matter has been added to the present Application by this Amendment.

Each of the rejections levied in the outstanding Office Action is addressed individually below.

#### **Claim Rejections under 35 U.S.C. § 103**

The Examiner rejected claims 4-10, 12-13, 23-27, 46-49, 55-57, 62-66, 77-79, 81-86, and 91-103 under 35 U.S.C. § 103(a) as being obvious over WO 2005/202999. The Examiner has cited WO 2005/202999 as prior art under § 102(e) against the present Application. Applicant submits herein a Declaration under 37 CFR § 1.132 signed by Bryon A. Merrill stating that the claimed invention of the present application was not invented "by another." Therefore, WO 2005/202999 is not prior art under § 102(e). Applicant respectfully requests that this rejection be removed.

#### **Claim Rejections under 35 U.S.C. § 112**

The Examiner rejected claims 4-10, 12-13, 23-27, 46-49, 55-57, 62-66, 77-79, 81-86, and 91-103 under 35 U.S.C. § 112, first paragraph, for lack of enablement. The Examiner states that the

specification, while being enabling for a few substituents with alkyl N groups for R<sub>2</sub> and R<sub>3</sub>, does not reasonably provide enablement for all the substituents as recited in the pending claims.

Without conceding the correctness of the Examiner's rejection and solely in order to further prosecution, the claims have been amended without prejudice to include a nitrogen atom as part of R<sub>3</sub>. R<sub>2</sub> has been amended in accordance with the first Restriction Requirement mailed March 10, 2009, and with the second Restriction Requirement issued by the Examiner by telephone, to recite "alkyl, alkoxy, hydroxyalkyl, and alkoxyalkyl." Applicant submits that the claims as amended are enabled by the specification, and Applicant respectfully requests that the rejection be removed.

In view of the above Amendment and Remarks, Applicant believes the pending application is now in condition for allowance.

Please charge in additional fees associated with the filing of this response, or credit any overpayments, to our Deposit Account No. 23/2825, under Docket No. C1271.70048US01, from which the undersigned is authorized to draw.

Dated: October 28, 2009

Respectfully submitted,

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